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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT SEATTLE

9 UNITED STATES OF AMERICA,  
10  
11 Plaintiff,

Case No. CR98-201-MJP

12 v.

13 BENJAMIN BURNS,  
14  
15 Defendant.

**PROPOSED FINDINGS OF FACT  
AND DETERMINATION AS TO  
ALLEGED VIOLATIONS OF  
SUPERVISED RELEASE**

16  
17 **INTRODUCTION**

18 I conducted a hearing on alleged violations of supervised release in this case on November  
19 18, 2011. The defendant appeared pursuant to a warrant issued in this case. The United States  
20 was represented by Bruce Miyake, and defendant was represented by Paula Deutsch. Also  
21 present was U.S. Probation Officer Mark Williams. The proceedings were digitally recorded.

22 **SENTENCE AND PRIOR ACTION**

23 Defendant was sentenced on December 17, 1998, by the Honorable William L. Dwyer for  
Manufacture of Methamphetamine. He received 120 months of detention and 5 years of  
supervised release.

On June 19, 2007, the Court approved a voluntary modification of Mr. Burns' supervision  
which directed him to participate in the home confinement program for a period of 90 days as a

1 result of his admitted use of alcohol and cocaine on or about June 1, 2007. On November 18,  
2 2008, the Court approved a no action report which charged him with using morphine on or  
3 before October 2, 2008.

4 On September 22, 2009, the Court revoked Mr. Burns' supervision and imposed a term of  
5 11 months custody, followed by a 49-month term of supervised release after he admitted to  
6 possession of marijuana, associating with persons known to have felony records, possession of  
7 methadone, and possession of morphine.

8 On August 29, 2011, a request for modifying the conditions of supervised release was  
9 submitted to the Court after Mr. Burns admitted to consuming methamphetamine on two separate  
10 occasions. On September 1, 2011, the Court approved the modification of 120 days electronic  
11 home monitoring curfew component.

#### 12 PRESENTLY ALLEGED VIOLATIONS

13 In a petition dated November 15, 2011, U.S. Probation Officer Jerrod Akins alleged that  
14 defendant violated the following conditions of supervised release:

15 1. Using Amphetamine on or before September 21, 28, and October 12, 18, 24, 2011,  
16 in violation of standard condition #7.

#### 17 FINDINGS FOLLOWING EVIDENTIARY HEARING

18 Defendant admitted the above violations, waived any hearing as to whether they occurred,  
19 and was informed the matter would be set for a disposition hearing on December 7, 2011 at 9:30  
20 a.m. before District Judge Marsha J. Pechman.

#### 21 RECOMMENDED FINDINGS AND CONCLUSIONS

22 Based upon the foregoing, I recommend the court find that defendant has violated the

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1 conditions of his supervised release as alleged above, and conduct a disposition hearing.

2 DATED this 18th day of November, 2011.

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5 BRIAN A. TSUCHIDA  
6 United States Magistrate Judge  
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